

AMD13-171
4/6/07

Jessie White

From: Jim Scholl [jim_scholl@dot.state.ak.us]
Sent: Monday, April 09, 2007 8:28 AM
To: 'Jessie White'
Subject: FW: Shepard Point STIP comments

Jessie, log this in as a comment. Thanks!

-----Original Message-----

From: jennifer@pwsoundkeeper.org [mailto:jennifer@pwsoundkeeper.org]
Sent: Friday, April 06, 2007 6:23 PM
To: Gabriel Scott
Cc: DOT_STIP@dot.state.ak.us; Josh Laughlin; Jay Lininger; Dune Lankard; Justin Massey; Dan Kruse
Subject: Re: Shepard Point STIP comments

excellent...thank you.

and now, a day on the life of eloise....

the community economic planning meeting that i just attended was interesting. hosted by the chamber with two federal people here working on identifying econ dev opportunities for pws. clay koplín and scott hahn are the cordova committee reps.....ya.

anyway, key issues that folks raised: cost of transportation, cost of energy, access to resources (emphasis on new fisheries - but you could see where that could go). bob h thought that katalla natural gas would be helpful and the fed people lit up with smiles -- how wonderful a natural gas pipeline would be - really, i am not kidding - fortunately the conversation moved in other directions - but transportation (ferry and plane) and energy costs were major themes of concern. so you could see some folks wheels spinning. those attending included bob, bruce, mark. harville and harville. hahn, joyce. hap and buddies from ocean beauty. rj. catherine. and a variety of others. i am pretty sure that larry, mo and curly were there somewhere.

ah, i could tell you more about these federal people - lets just say - a fine example of our tax dollars at work....unbelievable.

i made comments about encouraging innovation, clean projects that put the environment first and innovative partnerships like what the canneries attempted with crwp and fishmeal (the cannery guys had brought this up earlier) and looking at things like tidal energy instead of the same old ideas that have the same old problems...the cannery guys and then rj (????) said tidal has been looked at and technology wont work. i said, technology has progressed and guess what we are behind the curve because cook inlet is implementing a one year prototype study with a fla company....when i got home i called dune's local partner on tidal research and had a therapy session...

when i was leaving bruce made some crack about public investment in private projects is what shepard pt is and some people still have problems with it...i said bruce, that is not the problem with that project - and then i stuffed a large piece of cheese in my mouth and walked away...i was going to skip but thought that might be fun but not so nice...

Quoting Gabriel Scott <gscott@cascwild.org>:

> (hardcopy is in the mail)
 >
 > STIP Comments
 > Division of Program Development
 > Alaska Dep't of Transportation and Public Facilities POB 112500
 > Juneau, AK 99811-2500
 >
 >
 > To Whom It May Concern:
 >
 > Please consider these comments, submitted on behalf of Cascadia
 > Wildlands Project, and myself as an individual, regarding the
 > Draft Amendment 13 (Major) to the 2006-09 STIP. They are
 > specifically directed at the Shepard Point Road, Need ID #6617, in
 > the Northern region at Cordova. The project is to "construct
 > approximately 4 miles [sic] of road from Orca Cannery to the deep
 > water port site at Shepard Point." This apparently is the same
 > project as the "Cordova Oil Spill Response Facility Project," a BIA
 > proposed project currently in the final NEPA decision-making phase,
 > which would build the Shepard Point Road and a deep water port for
 > the purpose of pre- staging oil spill response equipment.[1] The
 > Draft STIP shows \$5,000,000 allocated to the "Construction" phase of
 > "approximately 4 miles of road from Orca Cannery to the deep water
 > port site at Shepard Point", in 2007.
 > \$4,548,500 of the funds are listed as STIP, and \$451,500 from CM.
 > It is ranked with a PEB score of 1
 > 99. The City of Cordova is the sponsor. There are many problems with
 > this entry, including:
 > Exposes state to hidden, long-term financial liabilities Major,
 > long-standing permitting problems Intense public controversy Public
 > Safety liability (avalanche & debris flows) No established use or need
 > (Road to Nowhere)
 >
 > Our members and staff are residents and have a large variety of
 > direct interests in the impacted area. After years of lengthy review,
 > we have concluded that long-term interests in local quality of life,
 > oil spill response, environmental protection and public safety are
 > threatened by the proposed road. We also feel all project advantages
 > can be affordably and efficiently accomplished by construction of the
 > oil spill response facility at an alternative location.[2]
 >
 > We are writing to ask that you remove the Shepard Point Road from the
 > STIP, and instead make that money available to construct the facility
 > at one of the identified alternative locations.
 >
 >
 > 1. The project is not properly classified under 17 AAC 05.170(d).
 >
 > The STIP classifies the Shepard Point road as a Community
 > Transportation Program rural and urban street. But according to the
 > regulation, "Projects in the Community Transportation Program

- > include surface transportation facilities of local or regional
- > significance that are owned by the state or its political
- > subdivisions..."[3] The Shepard Point road would be owned by the
- > Native Village of Eyak.[4] NVE is a federally recognized sovereign
- > tribe[5], in no sense a subdivision of the state of Alaska. The
- > road and port site are entirely on private land owned by NVE
- > for-profit sisters The Eyak Corporation and Chugach Alaska
- > Corporation. It is a private road on private land for private gain,
- > and it belongs in the private sector.
- >
- >
- > Not only does the state not own this project, it is being expected to
- > give up lease and/or ownership rights to extensive state tidelands.
- >
- >
- > 2. This project does not have a reasonable chance of success, given
- > lack of funding, permitting problems, and many other factors.
- >
- > This project has been listed on STIPs and other transportation
- > priority lists since the early 1990s, but has never come to fruition
- > for very good reasons. The proposed road runs through a gauntlet of
- > avalanche chutes.[6]
- >
- > The purported purpose of the project is oil spill response, yet the
- > "port site" the road is designed to access is uniquely ill suited
- > to that task. It would actually slow down oil spill response,
- > which is why responsible oil spill response organizations have
- > refused to endorse it.[7] Furthermore, the project as proposed
- > cannot be permitted under the Clean Water Act, section 404(b)(1)
- > guidelines. The US Army Corps of Engineers comment letter has
- > indicated:
- > "we do not find the information provided in the FEIS sufficient to
- > conclude the BIA preferred alternative is the LEDPA(least
- > environmentally damaging practicable alternative). A permit decision
- > favorable to the BIA preferred alternative would not be possible
- > unless the preferred alternative is clearly the LEDPA...Based on our
- > review of the information provided in the FEIS, alternative 3B
- > (Fleming Point, pile supported dock) appears to be the LEDPA."[8]
- >
- >
- >
- > This short, rarely used, dead-end section of road would be incredibly
- > costly to maintain[9], and there are huge funding shortfalls on
- > construction[10]. In fact, these funding issues warrant careful
- > scrutiny on their own. This project is a classic boondoggle and money
- > trap.
- >
- >
- >
- > Project Funding
- > Funding Required
- > STIP (FHWA)

> \$5,000
 >
 > EVOS
 > \$10,000
 >
 > BIA
 > \$3,000
 >
 > Total Available Funds
 > \$18,000
 >
 > Needed Construction \$
 >
 > \$30,700,000-\$39,700,000
 > Shortfall
 > \$12,700,000-\$21,700,000
 >
 >
 >
 > Project funding needs are misrepresented in the 2006-2009 STIP Draft.
 > Under 17 AAC 05.165 GENERAL REQUIREMENTS FOR THE STIP, subsection (c)
 > reads:
 >
 > "For each project, or an identified phase of a project, the
 > department will state the
 >
 > (1) estimated total project cost; the total project cost may extend
 > beyond the three years of the STIP;
 >
 > (2) state, federal, and other financing that is available for the
 > project; and
 >
 > The financing picture is not reflected in the STIP, a violation of
 > this regulation.
 >
 > (3) amount of financing proposed for obligation during each program
 > year for the project or phase.
 >
 >
 > With regard to §(1), the listed \$5,000,000 total cost is only a very
 > small fraction of the project. The minimum estimated needed cost
 > for construction of BIAs preferred alternative is \$30,700,000. Even
 > without the port construction costs (none of which have been
 > secured), the road alone is estimated to cost at least \$19.6
 > million. [11] Please explain the purpose for only listing
 > \$5,000,000. It appears to be a misrepresentation.
 >
 > With regard to 17 AAC 05.165 (c) (2), the STIP does not offer a true
 > funding picture for the project. The true situation, according to
 > public information from BIA's Final EIS, is that even with generous
 > donations, Exxon Valdez settlement, and BIA money, available funds
 > are far short of needed project funding. It also fails to reflect

> that there is no money for the port portion of the project.

>

> Even this massive shortfall doesn't tell the whole story. With

> regard to 17 AAC 05.165 (c) (3), the STIP only reflects funds for

> FFY07. Construction is not likely to start this year, as a Record

> of Decision has not been released, and there is not even a

> completed application submitted yet for the needed Corps of

> Engineers Clean Water Act §404(b)(1) permit. Even aside from

> permitting delays, construction will necessarily be a multi-year

> project. Unreflected in the STIP are those multi-year construction

> costs. Also unreflected are likely cost overruns when the avalanche

> danger is mitigated. None of the project funding identified to date

> can be used for construction of the port site, or purchase of any

> actual oil spill response equipment. It would be a Road to Nowhere,

> unless someone (the state) ponies up for a multi-million dollar

> dock. Also, the long-term maintenance costs of the road are hidden.

> Those are estimated at between \$467,000 and \$586,000 each year. No

> source of funds has been identified for that. The Native Village of

> Eyak

> would be responsible, but they have no source of income. No likely

> income or customer has been identified to use the road or port, to

> support these expenses. By making this a state project, the STIP

> is exposing the state to a long-term financial liability that is

> not in the state's best interest. Another good point. Might want

> to put this and the good point above in the initial summary.

>

> While the City of Cordova is listed as the sponsor, they have not

> committed anything to the project. To the contrary, the City

> long-ago abandoned the project because it was unfeasible. The City

> Council explicitly declined to consider the new information from

> BIA's NEPA process. It is purely a pro forma political sponsorship,

> not an expression of authentic community need or actual commitment

> by the City to commit anything or assume any responsibility.

>

> 3. Shepard Point Road fails to meet planning objectives The score for

> this project is suspect, given our understanding of this project.

> This project is not a high priority, and to the contrary could be

> very damaging. The project is highly controversial and there is not

> community consensus on the need.[12]

>

>

> 17 AAC 05.125. STATEWIDE TRANSPORTATION PLANNING OBJECTIVES. (a) In

> the statewide transportation planning process, the department will

> consider goals and objectives that will further

>

>

>

> (1) the economic vitality of the state;

>

> As indicated, the project is a boondoggle on many levels. Very large

> public liability is matched only by a handful of permanent jobs.

> These same economic benefits, and more, could be achieved at an

- > Alternative location.
- >
- >
- >
- > (2) the safety and security of users of the state's transportation system;
- >
- > The proposed road has extreme avalanche risk.[13] Worse, recommended
- > mitigation measures do not appear to be being implemented. To save
- > money, and cut down on needed fill, the road alignment remains
- > inland, where it is exposed to several huge avalanche chutes. Public
- > and expert comments clearly indicate this road would be a serious
- > public safety hazard. By endorsing it, the state is exposing users to
- > avoidable and serious dangers.
- >
- >
- >
- > (3) accessibility and mobility options available to people and for freight;
- >
- > The Shepard Point road does not provide us with anything significant
- > that we don't already have. The road would only offer access to a
- > small amount of undeveloped land, perched along the shore at the
- > bottom of precipitous mountains. Without a port (for which there is
- > no funding) the road provides very limited benefits. It only
- > accesses private land, owned by the Eyak Corporation and Chugach
- > Alaska Corporation. If this land was very developable, Eyak could
- > easily have built itself a road.
- >
- >
- >
- > (4) the integration and connectivity of various modes of the state's
- > transportation system;
- >
- > The Shepard Point road is supposedly to a deep-water port, but there
- > actually is no project money identified to build any. It is a road to
- > nowhere. The existing state ferries, city fuel transfer, and spill
- > response positioning is at the just-renovated Ocean Dock. The in-town
- > alternative locations much better serve connectivity of the state
- > transportation system. Shepard Point road only provides access to a
- > private port, and small amount of private land.
- >
- >
- >
- > (5) the preservation of existing transportation systems; and
- >
- > By stretching maintenance money thin, this project will compete for
- > funding with preservation of the existing transportation system.
- >
- >
- >
- > (6) any metropolitan area plan developed under 23 U.S.C. 134 and 49

> U.S.C. 5303-5306.

>

> The City of Cordova is listed as project sponsor. For the other

> permitting decisions, the Native Village of Eyak is sponsor, and will

> be road owner/operator. This project is listed as an important

> priority for NVE

>

>

>

> (b) When formulating its goals and objectives in the statewide

> transportation plan, and the strategies to implement those goals and

> objectives, the department will consider the concerns of interested

> persons and minimize any adverse environmental, economic, or social

> impact of those goals and objectives upon any segment of the population.

>

> The best you can say about this proposal is that it's controversial.

> The Exhibits show a fair representation of the many interests that

> would be damaged by building a Shepard Point Road. Economic

> concerns are major, as the project is a boondoggle with little

> economic benefit, in return for major long-term economic

> liability. In past economic environments this project may have

> penciled out, but today there is no identified source of income

> for the port. Social impacts of the road are demonstrated by the

> substantial controversy evident in Final EIS, and recent media

> coverage. Among the environmental concerns are special aquatic

> habitats, salmon streams, old-growth rainforest, and cumulative

> impacts encompassing the world-class Copper River Delta, and

> nationally recognized Rude River.

>

> 5. Shepard Point Road scores low on the needs list and should be

> evaluated with a score that is adjusted to consider project problems.

>

> 17 AAC 05.175. PROJECT NEEDS LIST AND EVALUATION.

>

> (b) For rural and urban streets projects classified under 17 AAC

> 05.170(d) (Community Transportation Program), the evaluation criteria

> are

>

> (1) economic benefits resulting from the project;

>

> There are few economic benefits resulting from this project, and

> there are much greater economic liabilities for the state.

> (2) the project's effect upon health and quality of life;

>

> The project would have a negative impact on health and quality of

> life. In the words on one Eyak leader, "this project would forever

> threaten our way of life."

>

> (3) whether the project enhances the safety of the traveling public;

>

> Avalanches, debris flows and wind dangers associated with the port

> have been identified as a clear threats to public safety.

>

> (4) whether the project improves intermodal transportation or lessens
> redundant facilities;

>

> The Shepard Point Road is redundant with existing docks in the
> Cordova area. While it could potentially be a unique conduit for deep
> draft vessels, no customers have been identified as likely to use the
> port, despite years of trying. There are no deep draft spill response
> vessels.

>

> (5) whether a municipality, another state agency, or a federal agency
> has made a contribution to finance capital costs;

>

> The Bureau of Indian Affairs and FHWA are federal agencies making
> contributions to this project. The state also is contributing,
> through nearly \$10 million in settlement money from the Exxon Valdez.

>

> (6) whether a municipality, another state agency, or a federal agency
> has made a commitment to assume ownership or to finance maintenance
> and operations costs;

>

> This condition is not met. Ownership will be assumed by Native
> Village of Eyak, a tribal government, but they have not made a
> commitment to finance maintenance or operations costs.

>

> (7) whether the project will lower state maintenance and operation
> costs;

>

> To the contrary, the facility can only add to state maintenance and
> operations costs. Over a quarter-million dollars a year would be
> necessary just to keep the road open.

>

> (8) environmental approval readiness;

>

> As evident in Exhibit A, a Clean Water Act permit for the Shepard
> Point road is impossible given the extensive available evidence. A
> Record of Decision could be issued any time, but without CWA permits
> the road cannot be built.

>

> (9) whether the project involves only surface rehabilitation;

>

> (10) evaluation of cost, length, and the existing roadway's average
> annual daily traffic count;

>

> The traffic analysis for the Shepard Point road shows very slight
> traffic for the proposed road. The most traffic expected to ever use
> it—on the first day of a massive oil spill—would be 67 vehicles.
> That is an absolute worst case scenario, calculated odds of less
> than once in every 300 years. [LE1] More routinely the road will
> serve only a few maintenance crew, and the odd townspeople running
> their dog. Since it dead-ends on a tiny spit of private land,
> there are precious few reasons to go there. It and presents safety

> hazard from avalanches and rockslides, so there are at least a few
> reasons to avoid it.
>
> (11) whether the project replaces deficient bridges;
>
> It does not.
>
> (12) whether the project corrects deficient roadway width, grade, or
> alignment;
>
> If anything the project will create deficiencies. In an effort to
> shave costs, already the project has 10% grades and a single-lane
> width. If use for the deepwater port ever were found, it is probable
> this road would need to be upgraded.
>
> (13) the functional classification of the project;
>
> As indicated above, the project cannot be classified as a Community
> Project road or street. As proposed the project does not appear to
> fall under any of the other classifications, either. It is a
> private road. The STIP lists the "Predominant Functional Class" as
> "unclassified." Again, the actual function or use of this road is
> highly uncertain, and entirely out of the state's control.
>
> (14) the degree to which the project exhibits innovation in the
> manner in which it addresses the project's challenges; and
>
> There have been some innovations in minimizing fill and avoiding
> avalanches. But many of those innovations are not being implemented.
> The obvious, critical problem with the proposal is the location, in
> massive natural avalanche chutes. In nearly 20 years of studying and
> planning, no cost-effective way has been discovered to substantially
> mitigate this threat. The only two options are moving the road out to
> sea, around the avalanche base, or extensive avalanche controls
> upslope. Either option would run into the hundreds of millions of
> dollars. Even project contractors considered that clearly not
> justified by the scant traffic envisioned on the road.
>
> (15) the degree of public support.
>
> As indicated by Exhibits, this project does not have the public
> support. There are lots of things we all agree on. This is not one of
> them.
>
>
> Thanks for considering these comments. Please keep us informed of any
> updates to the STIP concerning this project.
>
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>
> Sincerely,

>
>
> Gabriel Scott
> Alaska Field Representative
> Cascadia Wildlands Project
>
>
> cc.
> Governor Sarah Palin
> Senator Lisa Murkowski
>
>
>
>
> Attachments:
> Exhibit A—Corps of Engineers comments on Final EIS Exhibit B—Cordova
> Times coverage, letters to the editor Exhibit C—Anchorage Daily News
> coverage Exhibit D—Shepard Point Avalanche Hazard Exhibit E—Resolution
> 2006-9-2, Cordova District Fishermen United Exhibit F—Comment letter,
> Alaska Citizens for the Chugach.
> Exhibit G—Comment letter, Cascadia Wildlands Project Exhibit H—Comment
> letter, Trustees for Alaska Exhibit I—NVE/BIA Agreement
>
> [1] Extensive information is available at
> www.cordovaresponsefacility.com [2] There are several excellent
> alternatives available. We recommend Ocean Dock, although Fleming Point and Orca Cannery
also have merit.
> See Exhibits A, B and C; see also Alternatives 2, 3 and 5 in the
> Final EIS, available on the project website.
> [3] 17 AAC 05.170(d)
> [4] 2002 MOU between BIA, NVE (Exhibit I). “Under the 2002 BIA-NVE
> Agreement, NVE would own and operate the road and oil spill response
> dock facility” Cordova Oil Spill Response Facility Final
> Environmental Impact Statement, 2006, p.4-53; see also at Appendix
> S, p.22. The entire Final EIS with appendixes is available for
> download at: <http://www.cordovaresponsefacility.com/>, and online
> viewing at
> <http://www.cordovaresponsefacility.com/documents/feis/TOC.pdf>
> [5] <http://www.chugachmiut.org/tribes/eyak.html>
> [6] Fesler 2005 “Avalanche Hazard Evaluation and Mitigation
> Recommendations for the Proposed Cordova Oil Spill Response
> Facility.” Available online as Final EIS Appendix I at [http://](http://www.cordovaresponsefacility.com/)
> www.cordovaresponsefacility.com/
> [7] See Exhibit E: CDFU Resolution
> [8] see Exhibit A: Glen Justis, East Branch Chief, USACE, 1/26/2007
> letter to Kristin K’eit, BIA. This view has also been expressed in
> writing by the Deputy Assistant Secretary of the Army, to the
> Associate Deputy Secretary of the Interior, in a November 20, 2005
> letter. Contact at the Corps is Brian Herczeg, (800) 478-2712,
> bryan.a.herczeg@poa02.usace.army.mil
> [9] Estimated minimum \$514,000/ yr. Final EIS at 4-18.
> [10] At least 12.6 million. Bureau of Indian Affairs 2006 “Cordova

> Oil Spill Response Facility Final Environmental Impact Statement” at
> [11] BIA 2006 p.4-18 [12] See Exhibits [13] See Fesler 2005; and
> Exhibit D.
>
>
>
> Gabriel Scott, Alaska Field Rep
> Cascadia Wildlands Project
> POB 853
> Cordova AK 99574
> (907) 424-3835
> gscott@cascwild.org
> <http://web.mac.com/cascadiawildlands>
>
> The Cascadia Wildlands Project is dedicated to defending the forests,
> waters, and wildlife of the Cascadia bioregion. Become a member today
> at <http://cascwild.org>. Your support makes a difference!

Jennifer Gibbins
Soundkeeper/Executive Director
Prince William Soundkeeper
PO Box 1368
Cordova, AK 99574
907-424-5701